

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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GARY L. WAYERSKI ,

Petitioner,  
v.

CATHY A. JESS,

Respondent.

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ORDER

Case No. 20-cv-88-bbc

Petitioner Gary L. Wayerski seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner requests leave to proceed without prepayment of the filing fee. Petitioner has supported this request with an affidavit of indigency and a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed without prepayment, this court uses the formula set forth in 28 U.S.C. § 1915(b)(1). Using information for the relevant time period from petitioner's trust fund account statement, I find that petitioner is able to pay the filing fee. Accordingly, I will deny petitioner's application for leave to proceed without prepayment of the filing fee. To proceed further on this habeas petition, petitioner must pay the \$5 filing fee. If petitioner fails to pay the fee by February 20, 2020, the petition, I will assume that petitioner wishes to withdraw this petition.

## ORDER

IT IS ORDERED that:

1. Petitioner Gary L. Wayerski's motion for leave to proceed without prepayment of the filing fee is DENIED. Petitioner has until February 20, 2020 in which to pay the \$5 filing fee.

2. If by February 20, 2020 petitioner fails to submit the \$5 filing fee, I will assume that petitioner wishes to withdraw this petition.

Entered this 30<sup>th</sup> day of January, 2020.

BY THE COURT:

/s/

PETER OPPENEER  
Magistrate Judge